



**MINUTES  
of the  
THREE-HUNDRED-THIRTY-NINTH MEETING  
of the  
LEGISLATIVE COUNCIL  
August 29, 2011  
Santa Fe**

The three-hundred-thirty-ninth meeting of the Legislative Council was called to order on Monday, August 29, 2011, at 10:45 a.m. in Room 307 of the State Capitol by Speaker Ben Lujan, co-chair.

**Present**

Senator Timothy Z. Jennings, Co-Chair  
Representative Ben Lujan, Co-Chair  
Representative Thomas A. Anderson  
Representative Donald E. Bratton  
Senator Carlos R. Cisneros  
Representative Anna M. Crook  
Senator Stuart Ingle  
Representative W. Ken Martinez  
Senator Cisco McSorley  
Representative Rick Miera  
Senator William H. Payne  
Senator Michael S. Sanchez  
Senator William E. Sharer  
Representative Sheryl Williams Stapleton  
Representative Thomas C. Taylor

**Absent**

**Special Advisory Members Present**

Representative Eliseo Lee Alcon  
Senator Pete Campos  
Senator Mary Jane M. Garcia  
Representative Roberto "Bobby" J. Gonzales  
Representative Rhonda S. King  
Representative Dennis J. Kintigh  
Representative James Roger Madalena  
Representative Andy Nuñez  
Representative Debbie A. Rodella  
Senator John Arthur Smith

**Special Advisory Members Absent**

Senator Kent L. Cravens  
Representative Antonio Lujan  
Senator George K. Munoz

**Staff**

Raúl E. Burciaga, Director, Legislative Council Service (LCS)  
Kathy Pacheco-Dofflemeyer, Assistant Director for Administration, LCS

John Yaeger, Assistant Director for Legislative Affairs, LCS  
Jeret Fleetwood, Locator Coordinator, LCS

On a motion made, seconded and passed, the minutes of the June 29, 2011 meeting of the council were approved as submitted.

### **Interim Committee Requests**

A request by the New Mexico Finance Authority (NMFA) Oversight Committee for an extra meeting day to be held in Santa Fe in early October for the purpose of meeting with new NMFA director Richard May was approved.

A request by the Indian Affairs Committee for an extra meeting day to meet jointly with the Radioactive and Hazardous Materials Committee at the Pueblo of Sandia in October for the purpose of discussing uranium mining was approved.

Mr. Burciaga provided the council with a proposed change to Legislative Council Policy Number 5, explaining that the council had agreed at its last meeting to reduce the number of extra meetings members could attend for the 2011 interim from four to three and that the reduction needed to be formally put into Legislative Council policy.

In response to a question from Representative Rodella, Mr. Burciaga indicated that the reduction would only be in effect for the 2011 interim.

On a motion made, seconded and approved, the council adopted the proposed change to Legislative Council Policy Number 5.

### **State Investment Council Appointment**

Mr. Burciaga explained that Craig Reeves, one of the individuals appointed by the Legislative Council to the State Investment Council (SIC), had resigned. He went on to note that terms to the SIC are staggered, and that Mr. Reeves had served one year of his three-year term. Mr. Burciaga indicated that, per the Legislative Council's direction at its last meeting, staff had issued a press release soliciting resumés, collected resumés and transmitted them to the members of the council. He noted that the resumés of James E. Goodwin, Curt Johnson, Harold W. Lavender, Jr., and Jolene M. Meadows were included in the council's meeting packets.

In response to a question from Speaker Lujan about party affiliation, Mr. Burciaga noted that one applicant was a Republican and the other three registered as Declined to State.

Representative Martinez indicated that he knows Mr. Lavender, who was a former officer in the U.S. Air Force and worked with the legislature during the 2011 session.

In response to a question from Representative Bratton, Mr. Burciaga explained that Mr. Goodwin had volunteered to be on the SIC Audit Committee, but was not actually already a member of the SIC.

Senator McSorley indicated that he is much more comfortable with the current approach to appointing members to the SIC and applauded the extensive investment experience of all the applicants. He also noted that Mr. Johnson had performed similar work in South Dakota.

On a motion made, seconded and approved, Harold W. Lavender, Jr. was appointed by the council to serve on the SIC.

### **Staff Reports**

Mr. Burciaga introduced Abenicio Baldonado and Cassandra Jones as LCS interns, explaining that their internships would run from July 6 through December 31.

Mr. Burciaga provided the council with a letter from Larry Abraham, chair of the Rail Runner Fiscal Sustainability Task Force, asking the council to appoint a member from the house of representatives and the senate to the task force.

Speaker Lujan indicated that he would appoint Representative Miera to serve on the task force. Senate President Pro Tempore Jennings indicated that he would appoint a member of the senate later.

On a motion made, seconded and approved, the council authorized the payment of per diem and mileage to the members appointed to serve on the task force.

Senate President Pro Tempore Jennings announced that Senator Mark Boitano was removed from the Science, Technology and Telecommunications Committee.

Mr. Burciaga noted that the law school for legislators class is scheduled for November 5. He explained that while per diem and mileage have been approved for those members wishing to attend, the course would count as one of the three extra meetings legislators are allowed to attend this interim.

Mr. Burciaga also noted that the Natural Gas Shutdown Task Force met on July 25 and is waiting for the Public Regulation Commission to finish its investigation before issuing its final report.

Mr. Burciaga then provided the council with an update on the special session. He noted that while no staff would be available for individual legislators, majority and minority offices would have some extra staff members available, as mail and phone calls would be routed through them. He also pointed out that neither the bill room nor the coffee shop on the second floor would be operational. However, he did note that the coffee shop on the first floor would be

open. Mr. Burciaga also noted that state police officers would be working with capitol security to provide security, and he reminded the council that the 10-year anniversary of September 11, 2001 would occur during the special session. He indicated that a meeting is scheduled to address preparedness issues regarding capitol security.

Mr. Burciaga went on to explain that the proclamation officially calling the special session is expected the morning of September 6, with the session itself expected to convene at noon. He noted that it is anticipated that while the special session would focus mainly on redistricting, nine items are likely to be on the call. Mr. Burciaga also reminded the council members that it is unlawful for a state legislator or anyone on behalf of a legislator to knowingly solicit a contribution for a political purpose after the proclamation has been issued until the adjournment of the special session.

With regard to redistricting requests, Mr. Burciaga explained that requests should go through the LCS, and that while any drafter can take requests, staff members Jon Boller, Mr. Yaeger and Alise Rudio are the most familiar with the redistricting software. He also noted that about eight Research & Polling, Inc., staff members are available to meet with members, pointing out that those requesting a plan from them would still need to open a file with the LCS. Mr. Burciaga also indicated that several LCS staff members had been trained on the redistricting software and that this redistricting session would differ from the one 10 years ago in that staff members would not be available in committee rooms, but instead would remain in the LCS offices. However, he emphasized that staff members would be available to meet with members downstairs, too.

Mr. Burciaga also discussed the length of time it would likely take to produce redistricting bills, explaining that staff would have to account for the more than 1,500 individual voting precincts in the state for each bill requested, which requires a significant amount of time. He emphasized that staff would do everything they can to get legislation to members as quickly as possible. He also said that it would be easier to offer committee and floor substitutes for bills than it would be to amend them.

Mr. Burciaga noted that the redistricting legal team is also available to meet with members. However, he explained that because of the possibility of litigation, members should contact the LCS to coordinate access to the legal team that may have to represent the entire legislature in defending any plan that passes the legislature.

Mr. Burciaga also explained that a committee room would be available for the public to view maps and use the redistricting software. Finally, he noted that the last redistricting session lasted 17 days, with a concurrent session that ran on the last day. He indicated that the house of representatives met on all but one day during that session, while the senate met almost every day.

Some members of the council suggested that staff prepare a memo outlining what constitutes a legal challenge to a redistricting plan and what does not, as well as providing the

entire legislature with the primer on redistricting that the interim Redistricting Committee received.

Speaker Lujan acknowledged that a memo would be helpful, but he also suggested a joint session on the first day of the special session to explain the basics of redistricting.

Several members expressed concern over the number of items expected to be on the governor's proclamation that do not involve redistricting. Staff indicated that while neither the 1991 nor the 2001 redistricting sessions had any other items on the call, the 2001 concurrent session did involve other matters, but that agreements had been worked out ahead of time. Members also noted that no formal list of other items on the call had been provided by the governor. Mr. Burciaga noted that the LCS has offered to look at the proclamation before it is issued, which the LCS has done in past special sessions.

In response to a question from Senator Sanchez, Mr. Burciaga explained that bills related to the subject matter outlined in the proclamation may be introduced, but house and senate standing committees will have to rule on whether the bills are germane or not.

In response to a question from Representative Kintigh, Mr. Burciaga explained that there is a provision in the Election Code stating that the secretary of state must issue an election proclamation in the month of October, but it does not specify that it must happen on October 1.

Speaker Lujan addressed the concern that redistricting is conducted by a relatively small number of legislators, while most members are free to do whatever they want, noting that he doubts that any legislator would not be paying close attention to each plan introduced that might affect the legislator's district.

The council also had a discussion about the effective dates of legislation, particularly with regard to capital outlay legislation and the severance tax bonding schedule. Some members expressed concern about whether the state may lose some bonding capacity if the legislature waits until the 2012 regular session to pass a capital outlay bill.

David Abbey, director of the Legislative Finance Committee, explained that although the state already lost some of its bonding capacity for 2011, very little would additionally be lost if the legislature does not act until 2012. He did point out that some sponge bond capacity would be lost on December 31.

Senator Smith noted that one potential project leverages federal funds that might not be available after December 31.

Representative Taylor pointed out that money will go into the Severance Tax Permanent Fund if the legislature does not do anything during the special session.

In response to a question from Representative Rodella regarding various project funds, Mr. Abbey indicated that it does not make any difference in the bonding capacity of those funds if the legislature waits until the 2012 session to authorize projects from the funds.

In response to a question from Speaker Lujan, Mr. Abbey indicated that sponge bonds are sold on June 30.

Steve Arias, house chief clerk, and Lenore Naranjo, senate chief clerk, indicated that a memo would be provided to all members briefing them on office space and mail and phone procedures for special sessions.

Speaker Lujan explained that, judging from the anticipated subjects on the governor's call, the house will likely have nine standing committees meeting during the special session. He also noted that, at least in the house of representatives, all bills will be referred to the House Rules and Order of Business Committee (HRC) to determine whether or not they are germane.

Speaker Lujan also indicated that he would name a subcommittee of the HRC to investigate the member of the Public Regulation Commission from District Three. He explained that if the subcommittee feels there is a need to continue meeting after the special session adjourns, per diem and mileage would have to be authorized for the subcommittee members. Speaker Lujan went on to note that impeachment would most likely be carried out in an extraordinary session, reminding the council that it is a serious matter requiring the approval of three-fifths of each chamber.

Senate President Pro Tempore Jennings noted that, since the senate may have to serve as a jury in an impeachment proceeding, senate members should refrain from offering any opinion on the matter and should avoid any investigatory proceedings.

In response to a question from Speaker Lujan, Mr. Burciaga explained that the last impeachment investigation subcommittee was made up of five Democrats and five Republicans, and co-chaired by a member from each party.

In response to a question from Representative Martinez, Mr. Burciaga indicated that staff would look into whether the costs of impeachment should be included as a line item in the special session feed bill.

There being no further business, the council adjourned at 12:15 p.m.